

New Hampshire Department of Environmental Services
RESPONSE TO PUBLIC COMMENT
FOR THE
DRAFT 2002 SECTION 305(B) AND 303 (D) SURFACE WATER QUALITY ASSESSMENT

9/19/03

On December 4, 2002, the New Hampshire Department of Environmental Services (DES) released the draft Section 305(b) and 303(d) Surface Water Quality Assessment and the Draft 2002 Consolidated Assessment and Listing Methodology (CALM) for public comment. Downloadable copies of the draft assessment and CALM were made available on the DES website for review (www.des.state.nh.us/wmb/swqa/). In addition, the following organizations/agencies were notified by email or postal mail:

- Appalachian Mountain Club
- Audubon Society
- Connecticut River Joint Commissions
- Conservation Law Foundation
- County Conservation Districts
- Lake and River Local Management Advisory Committees
- Manchester Conservation Commission
- Merrimack River Watershed Council
- National Park Service
- New England Interstate Water Pollution Control Commission
- NH Rivers Council
- NH Municipal Association
- North Country Council
- Regional Planning Commissions
- Society for the Protection of National Forests
- The Nature Conservancy
- Upper Merrimack River Local Advisory Committee
- US Environmental Protection Agency
- US Geological Survey
- US Fish and Wildlife Service
- US Forest Service
- University of New Hampshire
- Volunteer Lakes Assessment Program
- Volunteer Rivers Assessment Program

Presentations were also made before the Water Quality Standards Advisory Committee (WQSAC) and the Lakes Management Advisory Committee. The WQSAC is comprised of representatives from the following organizations/agencies:

- Appalachian Mountain Club
- Business and Industry Association of NH
- Conservation Law Foundation
- Consulting Engineers of NH
- NH Association of Conservation Commissions
- NH Association of Conservation Districts
- NH Farm Bureau
- NH Fish and Game Department
- NH Lakes Association
- NH Municipal Association
- NH Office of State Planning

NH Public Health - Risk Assessment
NH Rivers Council
NH Timberland Owners Association
NH Travel Council
NH Water Pollution Control Association
NH Water Works Association
University of New Hampshire
US Environmental Protection Agency
US Fish and Wildlife Service

The public comment period ended on January 31, 2003. The following represents DES's response to public comments received during this period.

- 1) COMMENT: The committee is concerned that the public will misinterpret the information provided, thus a better explanation as to how and why a waterbody was/is listed, is recommended. For example, a brief description of the problem, where on/in the waterbody it occurred, its frequency, and its duration would be very helpful. On the other hand, the committee understands that it may not be possible because of preset formatting and reporting requirements of EPA. Further, is there a need to protect privacy and avoid liability issues by not pin-pointing hot spots or naming names and causes of water quality problems?

DES RESPONSE: Criteria for determining how waterbodies are assessed for uses such as swimming and fishing (i.e., aquatic life), as well as other uses, are provided in the 2002 Consolidated Assessment and Listing Methodology (CALM). This document was available for public review and comment on the DES website.

With regards to assessment details for each waterbody, this information is available but is not currently in a format that can be readily incorporated into a report. DES is working on ways to improve and automate documentation and reporting of assessment decisions for each waterbody.

DES always tries to be sensitive to protection of privacy and liability issues. However, identification of impaired waters (i.e., hot-spots), is a primary purpose of this document and of interest to many. Furthermore, States are required to report on such waters in accordance with the federal Clean Water Act [Section 305(b) and 303(d)]. As previously mentioned, the 2002 CALM describes how assessment decisions were made which includes how waters were determined to be impaired.

Causes (i.e., pollutants) and sources (i.e., a municipal wastewater treatment plant) of impairment are required inputs in the EPA Assessment Database (ADB) for impaired waters and help to guide future water management decisions. The selection of causes and sources in the ADB that are available for States to use are, for the most part, preset and described in general terms. This is done to promote national consistency in the use of assessment terms.

If a cause or source of impairment is not known, it is listed and reported as 'unknown' in the ADB. Causes of impairment, however, are usually obvious as most impaired waters are based on actual surface water measurements that indicate violations of State surface water quality standards and satisfy the criteria in the CALM for determining impairment. Sources of impairment, however, are sometimes more difficult to determine with certainty. In such cases, DES uses best professional judgment. As previously mentioned, if a source is identified, it is only described and reported in the general terms available in the ADB (i.e., municipal wastewater treatment plant or combined sewer overflow or illicit stormdrain connection).

- 2) Is it possible to develop a system whereby the degree of the problem is clarified? Instead of a waterbody being classified as good or bad, could a more detailed report and/or a wider grading scheme be developed? The committee was very concerned that just one bacterial count exceeding recommended limits would place a beach on the list and no explanation of the circumstances is/was provided.

DES RESPONSE: *The version of the EPA Assessment Database used by DES for the 2002 assessment does not allow assignment of subcategories to reflect relative degree of impairment. DES will keep this in mind in future reporting but is largely bound by the capabilities of the ADB.*

- 3) The Statewide Fish Consumption Advisory b/c of mercury requires that all waterbodies be placed on the list. The committee concurs that this is a difficult issue. Does the state have mercury contaminated fish from every waterbody? While some committee members believe that those lakes where mercury contaminated fish have not been documented, should not be listed, they also realize that sampling fish from every waterbody would be difficult to accomplish. On the other hand, the committee understands that erring on the side of caution and listing every waterbody is in the best interest of public health.

DES RESPONSE: *In accordance with the 2002 CALM, surface waters were listed as impaired for fish consumption if there were any "restricted consumption" or "no consumption" advisories or bans in effect. In New Hampshire, fish consumption advisories are issued by the Department of Health and Human Services (DHHS). The decision to issue an advisory is based on a risk assessment which accounts for pollutant concentrations in the environment and ways the public may be exposed to the pollutant. In December, 1994, DHHS issued the statewide fish consumption advisory due to mercury levels in fish tissue for all inland fresh waters. This advisory was based on a total of approximately 100 fish sample analyses composed of 15 different fish species collected from 28 lakes or ponds and three rivers. The decision to include all inland fresh waters at that time was based on fish tissue concentrations as well as the fact that mercury fish consumption advisories had been recently issued in the neighboring states of Maine (in May, 1994) and by Massachusetts (in September, 1994). Since 1994, many more fish tissue samples have been collected and analyzed. Although the data has resulted in modifications of advisory conditions for certain lakes, it has not suggested that advisories for any of the lakes should be completely removed. Consequently, fish consumption advisories for all inland waters (as well as all tidal waters) due to mercury remain in effect.*